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1300 NINETEENTH STREET NW  
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December 15, 2005

**BY HAND DELIVERY**

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

**FILED**

DEC 15 2005

**SURFACE  
TRANSPORTATION BOARD**

DEC 15 2005  
RECEIVED

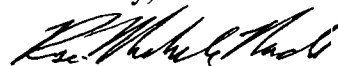
Re: Finance Docket No. 34803, Town of Corinth, New York – Acquisition  
and Operation Exemption – Canadian Pacific Railway

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of the verified notice of exemption of the Town of Corinth, New York, pursuant to 49 C.F.R. § 1150.31. Also enclosed is a check in the amount of \$1,500 to cover the filing fee for this proceeding. Concurrent with the filing of this verified notice of exemption, the Town of Corinth is filing with the Surface Transportation Board, under separate cover, (i) a Motion to Dismiss the verified notice of exemption, and (ii) a Request for Waiver of the Filing Fee for the verified notice of exemption.

Please acknowledge receipt of this filing by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Sincerely,



Rose-Michele Nardi

**FEE RECEIVED**

DEC 15 2005

**SURFACE  
TRANSPORTATION BOARD**

Enclosures

**ENTERED  
Office of Proceedings**

DEC 15 2005

**Part of  
Public Record**

**TOWN OF CORINTH, NEW YORK  
--ACQUISITION AND OPERATION EXEMPTION--  
CANADIAN PACIFIC RAILWAY**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.31**

**STB FINANCE DOCKET NO. 34803**

The Town of Corinth, New York (the "Town"), hereby files this Verified Notice of Exemption ("Notice") under 49 C.F.R. § 1150.31 et seq. to acquire from Delaware and Hudson Railway Company, Inc., doing business as Canadian Pacific Railway ("CPR"), and to perform intrastate passenger operations over, right-of-way, track and other rail assets comprising an approximately 16.45- mile rail line in New York (the "Subject Line").

Pursuant to the Quit Claim Deed by CPR in favor of the Town, CPR will reserve an exclusive and permanent freight easement over the Subject Line. The Town will have neither the right nor the obligation to perform common carrier freight service over the Subject Line. Instead, the Town or its designee intends to provide intrastate scenic tour passenger operations over the Subject Line. Accordingly, contemporaneously with this filing, the Town is filing a Motion to Dismiss the Notice because this transaction falls outside the jurisdiction of the Surface Transportation Board (the "Board").

Applicant's name and current mailing address:

The Town of Corinth  
600 Palmer Avenue  
Corinth, New York 12822  
(518) 654-2413

Applicant's representative to receive correspondence:

Rose-Michele Nardi, Esq.  
Weiner Brodsky Sidman Kider PC  
1300 19<sup>th</sup> Street, NW  
Fifth Floor  
Washington, D.C. 20036-1609  
(202) 628-2000

Information concerning the agreement:

The Town, a non-carrier, and CPR, a class I carrier, have reached or are close to reaching one or more agreements whereby CPR will transfer to the Town the Subject Line, subject to the reservation by CPR of an exclusive and permanent freight easement.

Operator of the property:

CPR will continue to be the freight operator of the Subject Line, and will have the exclusive right and obligation to provide common carrier freight service over the Subject Line. The Town or its designee intends to provide intrastate passenger operations over the Subject Line and the Trackage Rights Line (as defined below).

Brief summary of the proposed transaction:

CPR's mailing address is 200 Clifton Corporate Parkway, P.O. Box 8002, Clifton Park, NY 12065-8002. The Town and CPR expect to consummate the transactions described in this Notice on or after December 31, 2005. The Subject Line, which totals approximately 16.45 route miles, is more particularly described as running approximately from Adirondack Branch milepost 39.44 at or near Saratoga Springs, New York to Adirondack Branch milepost 55.89 at or near Corinth, New York.

In addition, the Town will be acquiring from CPR certain incidental trackage rights that will enable the Town to deliver and pick up passengers at CPR's Saratoga Springs Passenger Station. The incidental trackage rights will run from approximate milepost 37.10 to approximate milepost 38.20, which totals about 0.69 miles (the "Trackage Rights Line"). All of the incidental trackage rights involve track located in the vicinity of Saratoga Springs, New York.

Maps:

Maps of the Subject Line and the Trackage Rights Line are attached hereto as Exhibit A.

Related filings:

Contemporaneously with this Notice, the Town is filing in this proceeding a Motion to Dismiss the Notice, because the Town believes the subject transaction is outside the Board's jurisdiction. The Town is also filing in this proceeding a Request for Waiver of Filing Fee pursuant to 49 C.F.R. § 1002.2(e)(1).

Environmental issues:

Environmental documentation normally need not be submitted for a sale that does not "cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line"

(49 C.F.R. § 1105.7(e)(4)(iv)), on the one hand, or that does not “result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment” (49 C.F.R. § 1105.7(e)(5)(i)), on the other hand. *See* 49 C.F.R. § 1105.6(c)(2).

The acquisition transaction will not result in changes in carrier operations over the Subject Line that exceeds the above-listed thresholds.<sup>1</sup> Therefore, no environmental documentation is required for this transaction. In addition, environmental documentation typically is not required for trackage rights. *See* 49 C.F.R. § 1105.6(c)(4).

Transactions involving “[a] sale, lease or transfer of a rail line for the purpose of continued rail operations” are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if abandonment of such operations requires further approval by the Surface Transportation Board “and there are no plans to dispose of or alter properties subject to [the Board’s] jurisdiction that are 50 years old or older.” *See* 49 C.F.R. § 1105.8(b)(1). Similarly, trackage rights are exempt from the historic report requirements if the maintenance level of the rail property will not change substantially. *See* 49 C.F.R. § 1105.8(b)(3).

Board approval will be required to terminate common carrier operations over the Subject Line. The Town does not have plans for disposing of or altering properties 50 or more years old over which the Board has jurisdiction. In addition, the trackage rights will not substantially lower the maintenance level of the Trackage Rights Line. Therefore, a historic report is not required for this filing. *See* 49 C.F.R. § 1105.8(a), (b).

#### Certificate of projected revenue:

In accordance with 49 C.F.R. § 1150.33(g), a certificate concerning the projected revenues of the passenger rail operations on the Subject Line is attached as Exhibit B.

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<sup>1</sup> There has been no freight revenue traffic over the Subject Line since November 2003, and there has been no active yard on the line for many years. (Occasionally, an empty passenger rail car has been moved over the Subject Line to reach a connecting rail line in Warren County, NY over which rail passenger operations occur.) The Board previously has ruled that when there is no traffic on a rail line, the situation is analogous to a reinstitution of rail service, which triggers an environmental review under §1105.7(e)(i)(A) only if the transaction exceeds the threshold of eight daily trains. *See* STB Finance Docket Nos. 33508 and 33537, *Missouri Central Railroad Company – Acquisition and Operation Exemption – Lines of Union Pacific Railroad Company; GRC Holdings Corporation – Acquisition Exemption – Union Pacific Railroad Company*, 1998 WL 211757, at \*6, served April 30, 1998, *petition for reconsideration denied*, 1999 WL 715279, served September 14, 1999; *petition for judicial review denied Lee’s Summit v. Surface Transportation Board*, 231 F.3d 39 (DC Cir. 2000). Initially, the Town expects to run only one passenger train per day, and it is unlikely that the Town will run more than three trains daily during its first year or two of operations.

Labor notice:

The projected annual revenue of the subject passenger rail operations will not exceed five million dollars. Accordingly the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rose-Michele Nardi".

Rose-Michele Nardi  
Weiner Brodsky Sidman Kider PC  
1300 19<sup>th</sup> Street, NW  
Fifth Floor  
Washington, DC 20036-1609

Attorneys for:

Town of Corinth, New York

Dated: December 15, 2005

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**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.31**

**STB Finance Docket No. 34803**

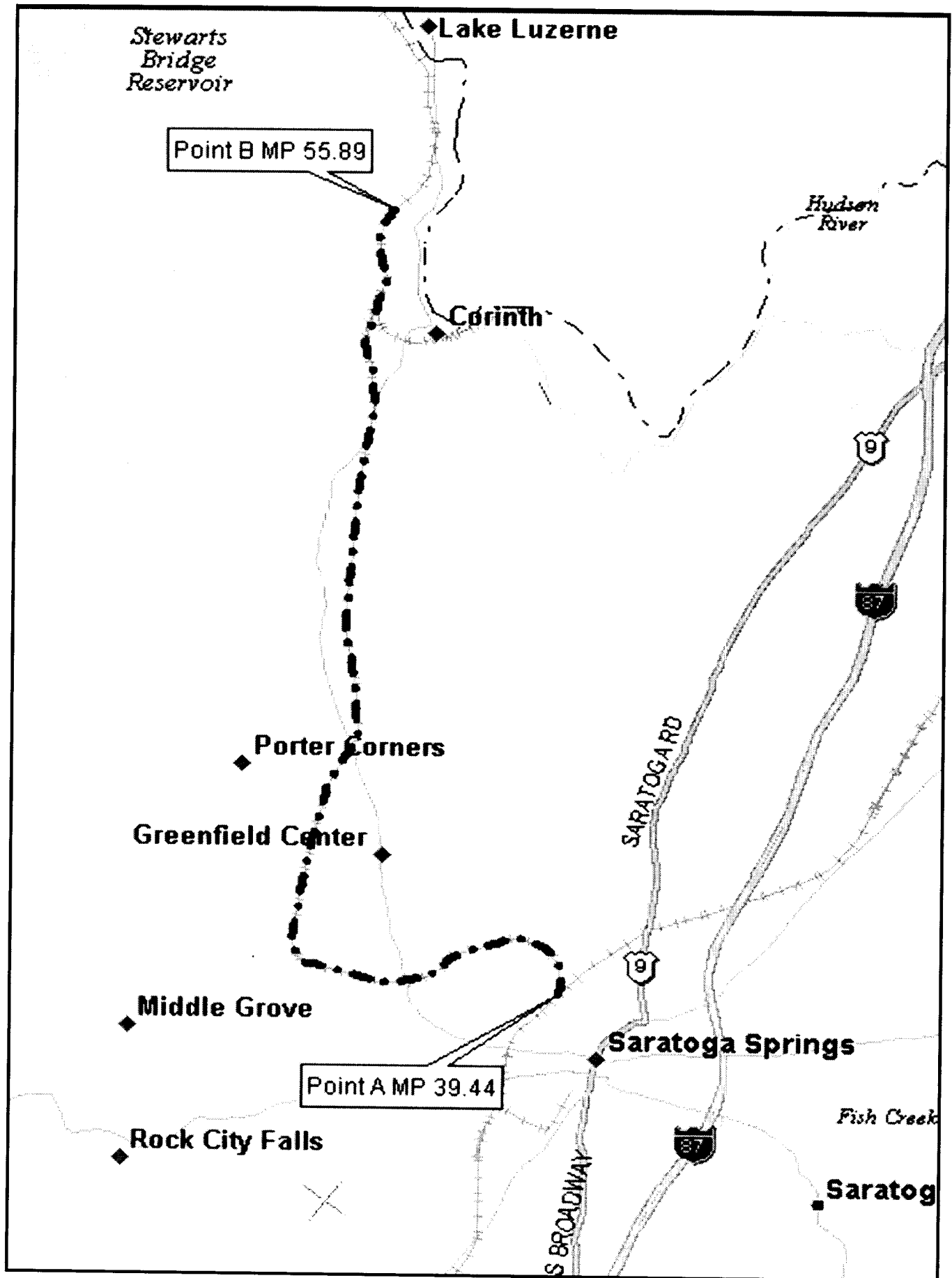
**TOWN OF CORINTH, NEW YORK  
--ACQUISITION AND OPERATION EXEMPTION--  
CANADIAN PACIFIC RAILWAY**

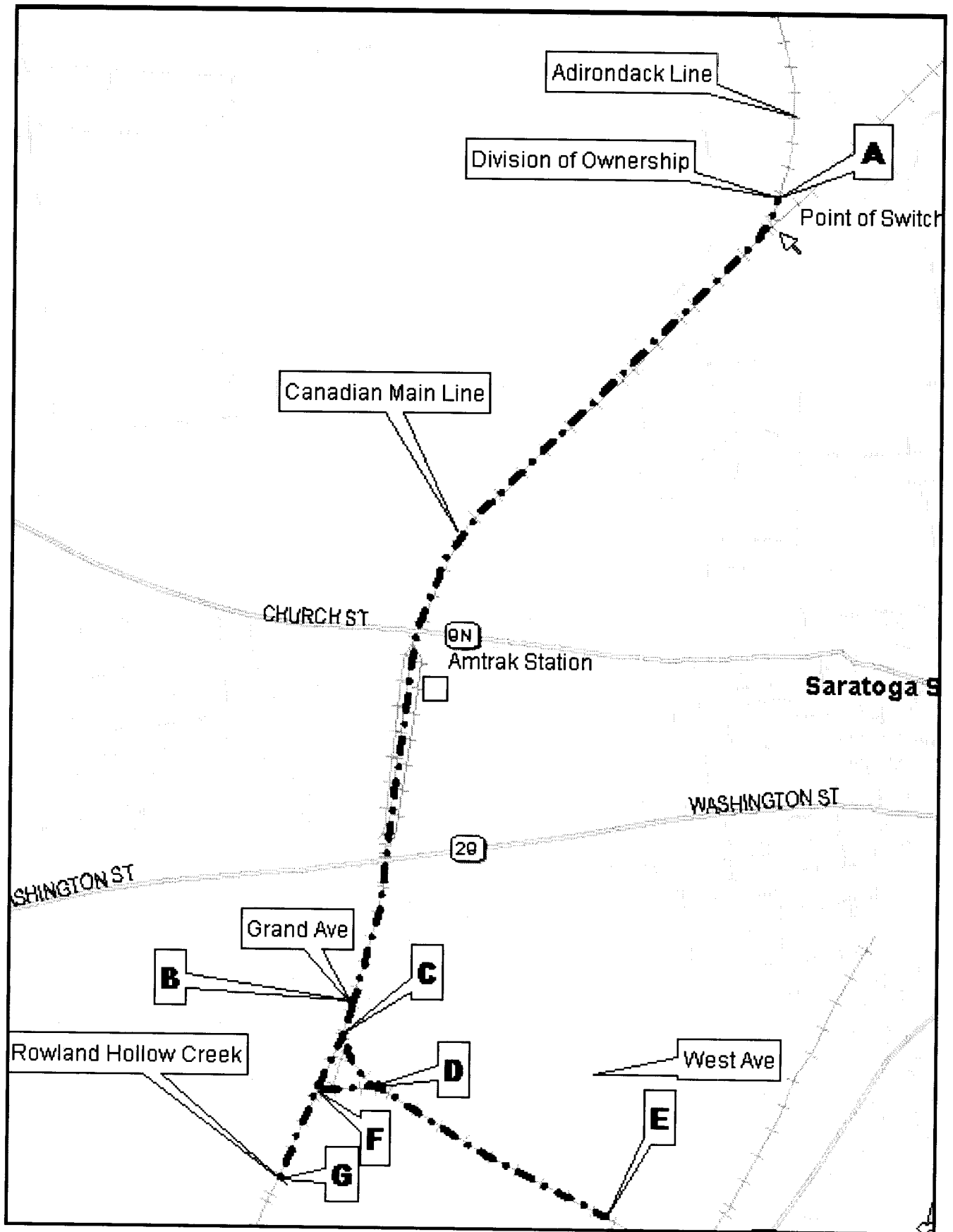
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**EXHIBIT A**

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**MAPS**





**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.31**

**STB Finance Docket No. 34803**

**TOWN OF CORINTH, NEW YORK  
--ACQUISITION AND OPERATION EXEMPTION--  
CANADIAN PACIFIC RAILWAY**

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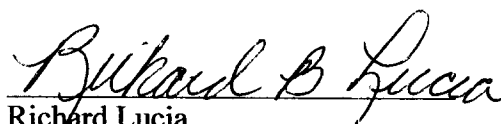
**EXHIBIT B**

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**CERTIFICATE OF REVENUE**

## CERTIFICATE OF REVENUE

The undersigned hereby certifies that the projected annual revenues of the passenger rail operations on the Subject Line will not exceed those that would qualify it as a class III carrier.

A handwritten signature in cursive script, reading "Richard B. Lucia".

Richard Lucia  
Supervisor  
Town of Corinth, New York

Dated: December 15, 2005

**SURFACE TRANSPORTATION BOARD**

***VERIFIED NOTICE OF EXEMPTION***

**STB FINANCE DOCKET NO. 34803**

**TOWN OF CORINTH, NEW YORK  
--ACQUISITION AND OPERATION EXEMPTION--  
CANADIAN PACIFIC RAILWAY**

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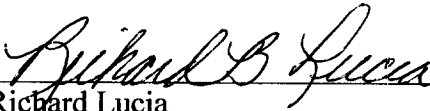
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In this proceeding, the Town, contemporaneous with this notice of exemption, also is filing a motion to dismiss the notice of exemption and a request for a waiver of the filing fee for the notice of exemption.

Comments must be filed with the Surface Transportation Board, Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423 and served on Rose-Michele Nardi, Esq., Weiner Brodsky Sidman Kider PC, 1300 19<sup>th</sup> Street, NW, Fifth Floor, Washington, DC 20036-1609.

This notice is filed under 49 C.F.R. § 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

I, Richard Lucia, certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to cause this Verified Notice of Exemption to be filed.

A handwritten signature in cursive script, reading "Richard B. Lucia", written over a horizontal line.

Richard Lucia  
Supervisor  
Town of Corinth, New York

Dated: December 15, 2005